

## REMARKS

As a manufacturer of portable partitions for over ten years, the present applicants became aware of the instability of portable partitions on wheels that are in commercial use which tend to tip over, especially when persons (including young people and teenagers in a school or church setting) expand the partition from a collapsed condition. The possible financial loss from a consumer product liability lawsuit is, of course, a serious drawback.

In the Maas patent 5,272,848, the curved posts 15 and 16 which connect the base bar 14 to the vertical post 13 (column 2 lines 19 and 20) serve as handles. The Examiner will note that 1) the curved posts 15 and 16 where a person will grab them are located about a foot to each side of panel 11, and 2) the posts are connected to the horizontal base bar 14 (not spaced from it). The present applicants, in a development project lasting many months, discovered an important flaw in the Maas-type construction. When people grabbed the curved handle portion of Maas posts 15 and 16 to expand the unit, there was a tendency to tip the partition over, which is of course unacceptable. It is however the curved posts 15 and 16 that are relied upon by Maas to make a secure support for the panel 11 on the horizontal crossbar 14. See Maas column 2 lines 19 and 20 which provides:

“and a pair of curved posts 15 and 16 connecting the base bar 14 to the vertical post 13. The end members 12a and 12b are wider than the panels 11 and provide support for the unfolded panels 11.” (emphasis supplied.)

It was after consideration of these problems that the applicants ultimately developed a way to avoid the instability problem. Part of the solution is now clearly stated in claim 1 as amended:

“a pull handle that is spaced apart from the spread end foot and connected to the vertical end frame member in alignment with the plane of the carrier panel and above a center portion of each spread end foot”

The applicants discovered that when the portable partition unit is collapsed as shown in applicants' Figure 2, . . . then grasped at each end by the handles 24 as shown in Figure 1A and expanded by pulling the handles, forces are inherently aligned along vectors 26 and 28 thereby expanding the folding partition of Figure 1A to Figure 1B without tipping it. Thus, the construction as claimed automatically renders the present invention much more stable and resistant to being tipped over. It is believed that this is due to the alignment of the handles 24 with the plane of the panels 12 and 14 and the consequent alignment of the pulling forces at 26 and 28 along the center plane of each end panel. Since Maas relies on the curved parts of posts 15 and 16 (which are each spaced say, 10-12 inches laterally of panel 11) as handles, and also as a brace for securely connecting panel 11 to the crossbar 14, he obviously has no motivation to provide a handle “that is spaced apart from the spread and foot and connected to the vertical frame member in alignment with the plane of the carrier panel and above the center portion of each spread end foot” as now claimed because to do so would not “provide support for the (Maas') unfolded panels 11” (see Maas column 2 lines 19 and 20). However, applicants also have a duplex mount, *e.g.*, as shown at 90 in Figure 9.. Claim 1 now provides:

“a duplex mount rigidly connecting the spread end foot to a bottom end of each carrier panel at right angles thereto, said duplex mount having a part thereof connected to a carrier panel and a part thereof connected to the spread end foot,”

Thus, in the present invention, it is both the duplex mount as claimed together with the pull handle as claimed which interact in a cooperative way to successfully provide stability even

when set up by children, as well as reliable coupling between the applicants' panel 14 and applicants' spread end foot 30. Because of these differences in construction compared with Maas and the cooperative interaction between the applicants' pull handle and the duplex mount to achieve both stability and good coupling, claim 1 as now amended is believed to be fully allowable over Maas. Favorable consideration and allowance of claim 1 as amended is therefore believed to be in order and is respectfully requested.

Concerning claims 1 and 2, the Office Action states correctly that Maas includes carrier panels 11a and 11b and wheels 19. The spread end foot is not 12a but is actually 14 in the Maas device. However, the statement that 20 of Maas is a duplex mount is incorrect. Part 20 is actually a pivoted clasp that can be flexed outwardly as described in Maas column 2 lines 41-47 and is used for the utilitarian purpose of locking the partition in a folded-up condition as shown in Maas Figure 1. The construction of the clasp 20 is shown in Figure 5 and it is nothing like applicants' duplex mount which is shown at 90 in Figure 9 and was discovered by the applicant to provide the stability and overall strength required to enable the Maas style curved posts 15 and 16 to be completely eliminated and, as the Examiner knows, the elimination of parts is frequently an indication that an inventive advance has been made.

Applicants emphatically deny that the pull handles 15 and 16 of Maas are aligned with the carrier panel. The Examiner will note that the applicants have provided that the handle member is "aligned in the plane of the carrier panel" (emphasis supplied). By contrast, each of the curved posts 15 and 16 of Maas are several inches on each side of the plane of the panels 11a and 11b, perhaps 8-12 inches on each side of the panels 11a and 11b. There is no suggestion in any of the art to move them centrally to the plane of the end panels or any suggestion of how this could be done.

In connection, the Examiner is referred to *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick, Co.* 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984):

“Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.”

(emphasis supplied).

Maas not only lacks the duplex mount but also the pull handle aligned vertically over each spread end foot at a point between the ends thereof as now claimed. The Examiner will note, for example, in Figures 1A, 1B, and 2 that the applicant's pull handles 24 are not connected to the spread end foot 30, and in fact are positioned about 2 or 3 feet above it. Instead, they are connected to the vertical end frame member in alignment with panels 12 and 14 over a center portion of each spread end foot. Claim 1 has now been amended to provide, among others, the following elements:

- a duplex mount rigidly connecting the spread end foot to a bottom end of each carrier panel and at right angles thereto, said duplex mount having a part thereof connected to a carrier panel and a part thereof connected to the spread end foot,
- a pull handle that is spaced apart from the spread end foot and connected to the vertical end frame member in alignment with the plane of the carrier panel and above a center portion of each spread end foot and,
- such that movement of the carrier panels by a person gripping the pull handles acts to spread or collapse the inactive panels while providing support that helps prevent the partition from tipping.

See, for example, page 1 lines 12-17 which explains how the applicants discovered a way of overcoming the tipping tendency of the Maas patent 5,272,848. Favorable consideration and allowance of claim 1 is therefore believed to be in order and is respectfully requested.

With respect to claim 2, the Examiner is directed to Figures 1 and 2 which show the U-shaped handles 24 which are aligned in the plane of the carrier panels, *i.e.* the end panels 12 and 14. There is nothing whatsoever in Maas or any of the other references to show how the applicants U-shaped handles 24 automatically line up the pulling forces shown at 25 and 28 with the plane of the panels 12 and 14 thereby successfully overcoming the tendency for the partition to be overturned, especially when it is being set up by inexperienced users. Claim 2 is therefore believed to be allowable for the same reason as claim 1 and for the further reason that it is more specific than claim 1. Maas would have to rotate the curved posts 15 and 16 90° to an upright position, cut off the vertical leg portions that go down to the end of bar 14, then attach the cut off ends to the upright 13 and there is nothing whatsoever in Maas to suggest making all of these changes. Claim 2 should therefore clearly be allowed. Favorable consideration is requested.

Claim 3 should be allowed for the same reason set forth concerning claim 1 and because there is no suggestion in the art that adding a second set of wheels to the end panels, *i.e.* the (endmost) carrier panels as claimed, would afford additional stability. The applicants, however, discovered that by adding a second set of wheels to the end carrier panels 12 and 14 only that an additional level of stability is provided to help prevent the partition from falling over when it is moved or expanded. While the Examiner has stated that it would appear to be obvious to use more wheels to add stability, the applicants wish to emphasize that the additional wheels were only added to carrier panels 12 and 14. Surprisingly, additional stability was still achieved. Favorable consideration is requested.

Concerning claim 4, applicants acknowledge that Aysta discloses pliable plastic coupling strips 20 between panels. Claim 4 depends from claim 1 and is believed to be allowable for the same reason as claim 1 and because it is more specific through the inclusion of additional elements. Favorable consideration is requested.

Claims 5-8 have now been canceled.

Claim 9 which is believed to be allowable for the same reason as claim 1 and because it is more specific has now been amended to provide for a bridging element with an internal retaining member (see 103 and 104 of Figure 14) which is slideably mounted within a slot at the top of each panel. There is nothing whatsoever in Downing to suggest slots with members that slide through them as now claimed. In fact, there appears to be nothing whatsoever to hold his locking element on top of the panels, except possibly gravity. Consequently, claim 9 as now amended is not suggested at all by Downing. Claim 9 as amended is therefore believed to be allowable for this additional reason. Favorable consideration is requested.

Claims 10-18 have been canceled.

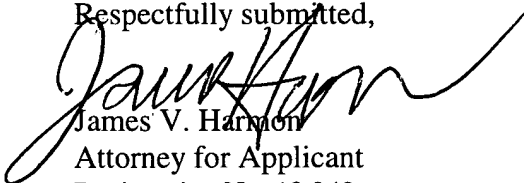
Claim 19 is believed to be allowable for the same reason as claim 4 and because it is more specific and also because the applicants found a way of using the same slots, *i.e.* frame members having the same cross-sectional configuration with the flexible strips held in vertical slots and with the same slots used again at the top with the bridging member to slideably mount the bridging member within the horizontal slots at the top of the panels. Compare applicants' Figures 13 and 14 in which the projections 103 and 104 slide within horizontal slots that are the same slots that extend vertically for holding the flexible strips shown in Figure 5. None of the art suggests this construction nor the inventory reduction cost saving that the invention thus made possible. Claim 19 should therefore be allowed.

Claims 20, 21, and 24 which the Examiner acknowledged contained allowable subject matter have now been placed in independent form and are therefore believed to be fully allowable as amended.

Claim 22 is believed to be allowable for the same reason as claim 1 and because it is more specific in calling for caster wheels and duplex mount with lateral arms aligned over the spread end foot and also have longitudinally extending arms connected to the carrier panel. Because none of the art suggests this, claim 22 is now believed to be allowable. The Examiner has acknowledged the allowance of a somewhat similar combination in claim 24. Favorable consideration is requested.

Claim 23 has now been made more specific and is believed to be allowable for the same reason as claim 22. Favorable consideration and allowance of claim 23 is therefore believed to be in order and is respectfully requested.

Respectfully submitted,

  
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